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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Robert Czarnek et al.

Attorney Docket No. AMT-111US

Serial No. 09/898,313

Group Art Unit: 3724

Filed: July 3, 2001

Examiner: Phong H. Nguyen

Title: AUTOMATIC TABLET-CUTTING DEVICE AND CUTTING METHOD

* * * * *

Jansson, Shupe & Munger, Ltd.
245 Main Street, Suite M
Racine, WI 53403-1034
January 22, 2003

Box Non-Fee Amendment
Assistant Commissioner for Patents
Washington, DC 20231

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RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This is responsive to the Restriction Requirement set forth in the Office Action mailed December 23, 2002.

The Examiner has indicated that the present application contains two distinct inventions, namely, the invention of claims 1-24 and 32-36 drawn to a tablet-cutting apparatus (product) and claims 25-31 drawn to a method of cutting a tablet (process). In support of the restriction requirement, the Examiner has cited to MPEP § 806.05(e) which permits separate recognition of process and apparatus if the process as claimed can be practiced by another materially different apparatus or by hand. The Examiner has stated that the method claims 25-31 are distinct inventions under MPEP § 806.05(e) because "a knife can be used to split a tablet in half."

Applicants respectfully traverse the restriction requirement and request reconsideration and withdrawal of the requirement. Independent claim 25 (and dependent claims 26-31) are directed to a method of automatically cutting a tablet into tablet portions. Claim 25 is as follows:

25. A method of automatically cutting a tablet into tablet portions having substantially equal volume comprising the steps of:
- positioning the tablet along a tablet-guide;
 - automatically orienting the tablet into an orientation in which a tablet first primary axis is parallel to a first direction;
 - automatically moving the tablet in such orientation along the tablet-guide into alignment for cutting at a cutting position; and
 - cutting the aligned tablet.

Claim 25 (and dependent claims 26-31) *as claimed* contradicts the Examiner's position that the method can be practiced by hand by cutting with a knife. Further, the Application states at page 37, lines 5-6 that the cutting step is automatic. That cutting step is described in detail at page 37. Therefore, claim 25 is directed to an automatic, machine-performed process – not a hand cutting process as suggested by the Examiner. Since Applicants have proven that the claimed process cannot be performed by hand as asserted by the Examiner, it would be appropriate for the Examiner to withdraw the requirement. MPEP § 806.05(e) at page 800-45.

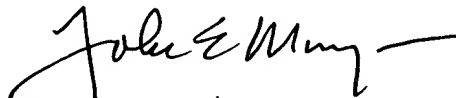
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Applicants respectfully request that any requirement for restriction be reconsidered and withdrawn.

Subject to the above traverse of the restriction requirement, Applicants make a provisional election to select the invention of claims 1-24 and 32-36 for further prosecution of this application.

Respectfully submitted,

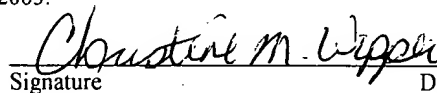

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Name: Christine M. Wipper

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3724

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/898,313	
	Filing Date	July 3, 2001	
	First Named Inventor	Czarnek et al.	
	Group Art Unit	3724	
	Examiner Name	Phong H. Nguyen	
Total Number of Pages in This Submission		Attorney Docket Number	AMT-111US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
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<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	John E. Munger, Reg. No. 37,685 Jansson, Shupe & Munger, Ltd. 245 Main Street, Racine, WI 53403
Signature	
Date	January 22, 2003

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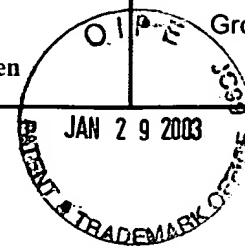
Applicant(s): Czarnek et al.

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July 3, 2001Examiner
Phong H. NguyenGroup Art Unit
3724

Invention: Automatic Tablet-Cutting Device and Cutting Method

**TO THE ASSISTANT COMMISSIONER FOR PATENTS:**

Transmitted herewith is an amendment in the above-identified application.

The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	36 -	36 =	0 x	\$18.00	\$0.00
INDEP. CLAIMS	4 -	4 =	0 x	\$84.00	\$0.00
Multiple Dependent Claims (check if applicable) <input type="checkbox"/>					\$0.00
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT					\$0.00

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Dated: January 22, 2003

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